

AMENDED IN ASSEMBLY AUGUST 1, 2016

AMENDED IN ASSEMBLY JUNE 27, 2016

AMENDED IN SENATE APRIL 6, 2016

SENATE BILL

No. 1054

Introduced by Senator Pavley

February 16, 2016

An act to amend Section 2085.5 of, and to add ~~Section~~ *Sections* 2085.7 and 2085.8 to, the Penal Code, and to amend Section 19280 of the Revenue and Taxation Code, relating to restitution orders.

LEGISLATIVE COUNSEL'S DIGEST

SB 1054, as amended, Pavley. Restitution orders: collection.

(1) Existing law, when a prisoner is punished in a county jail for a felony, in any case in which the prisoner owes a restitution ~~order~~, *order or fine*, permits the agency designated by the board of supervisors in the county where the prisoner is incarcerated to deduct a minimum of 20% or the balance owing on the order amount, whichever is less, up to a maximum of 50% from a county jail equivalent of wages and trust account deposits of a prisoner for transfer to the California Victim Compensation and Government Claims Board. Existing law authorizes the agency to deduct and retain an administrative fee from a prisoner, parolee, or former prisoner that totals 10% of any amount transferred to the board pursuant to these provisions. Existing law authorizes the collection of restitution fines or restitution orders from a person who has been released from a state prison or county jail and is subject to postrelease community supervision or mandatory supervision, as specified.

This bill would instead allow the designated agency to deduct and retain an administrative fee from a ~~prisoner, parolee, or former prisoner to cover prisoner or parolee in an amount that covers~~ the actual administrative cost of collection, not to exceed 10% of the total amount collected pursuant to the above provisions. The bill would authorize the collection of restitution fines or restitution orders, in a manner to be established by the county board of supervisors, by the county agency designated by the board from a person who has been released from a county jail without being subject to postrelease community supervision or mandatory supervision, as specified. The bill would require a county that elects to collect restitution fines and restitution orders pursuant to these provisions to coordinate efforts with the Franchise Tax Board, as specified. *The bill would also make technical, nonsubstantive changes to the organization of the provisions.*

(2) Existing law, unless the victim of the crime notifies the Department of Corrections and Rehabilitation or county to the contrary, allows the department or county to refer a restitution order to the Franchise Tax Board for collection.

This bill would prohibit the department or county from referring the restitution order to the Franchise Tax Board if a county agency has been designated by the county board of supervisors to collect restitution from individuals who have been sentenced to a county jail for a felony, who are on mandatory supervision, or who are on postrelease community supervision, the designated county agency has an existing collection system and objects to collection by the board, and the designated county agency informs the department or county that it will collect the restitution order. If the crime victim entitled to restitution in the order notifies either the department or the designated county agency with regard to his or her preference of a collecting agency, the bill would require the collection to be performed in accordance with that preference.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 ~~SECTION 1. Section 2085.5 of the Penal Code is amended to~~
- 2 ~~read:~~
- 3 ~~2085.5. (a) In any case in which a prisoner owes a restitution~~
- 4 ~~fine imposed pursuant to subdivision (a) of Section 13967 of the~~

1 ~~Government Code, as operative prior to September 29, 1994,~~
2 ~~subdivision (b) of Section 730.6 of the Welfare and Institutions~~
3 ~~Code, or subdivision (b) of Section 1202.4 of this code, the~~
4 ~~Secretary of the Department of Corrections and Rehabilitation~~
5 ~~shall deduct a minimum of 20 percent or the balance owing on the~~
6 ~~fine amount, whichever is less, up to a maximum of 50 percent~~
7 ~~from the wages and trust account deposits of a prisoner, unless~~
8 ~~prohibited by federal law, and shall transfer that amount to the~~
9 ~~California Victim Compensation and Government Claims Board~~
10 ~~for deposit in the Restitution Fund. The amount deducted shall be~~
11 ~~credited against the amount owing on the fine. The sentencing~~
12 ~~court shall be provided a record of the payments.~~

13 ~~(b) (1) If a prisoner is punished by imprisonment in a county~~
14 ~~jail pursuant to subdivision (h) of Section 1170 and owes a~~
15 ~~restitution fine imposed pursuant to subdivision (a) of Section~~
16 ~~13967 of the Government Code, as operative prior to September~~
17 ~~29, 1994, subdivision (b) of Section 730.6 of the Welfare and~~
18 ~~Institutions Code, or subdivision (b) of Section 1202.4 of this code,~~
19 ~~the agency designated by the board of supervisors in the county~~
20 ~~where the prisoner is incarcerated is authorized to deduct a~~
21 ~~minimum of 20 percent or the balance owing on the fine amount,~~
22 ~~whichever is less, up to a maximum of 50 percent from a county~~
23 ~~jail equivalent of wages and trust account deposits of a prisoner,~~
24 ~~unless prohibited by federal law, and shall transfer that amount to~~
25 ~~the California Victim Compensation and Government Claims~~
26 ~~Board for deposit in the Restitution Fund. The amount deducted~~
27 ~~shall be credited against the amount owing on the fine. The~~
28 ~~sentencing court shall be provided a record of the payments.~~

29 ~~(2) If the board of supervisors designates the county sheriff as~~
30 ~~the collecting agency, the board of supervisors shall first obtain~~
31 ~~the concurrence of the county sheriff.~~

32 ~~(c) In any case in which a prisoner owes a restitution order~~
33 ~~imposed pursuant to subdivision (c) of Section 13967 of the~~
34 ~~Government Code, as operative prior to September 29, 1994,~~
35 ~~subdivision (h) of Section 730.6 of the Welfare and Institutions~~
36 ~~Code, or subdivision (f) of Section 1202.4 of this code, the~~
37 ~~secretary shall deduct a minimum of 20 percent or the balance~~
38 ~~owing on the order amount, whichever is less, up to a maximum~~
39 ~~of 50 percent from the wages and trust account deposits of a~~
40 ~~prisoner, unless prohibited by federal law. The secretary shall~~

1 transfer that amount to the California Victim Compensation and
2 Government Claims Board for direct payment to the victim, or
3 payment shall be made to the Restitution Fund to the extent that
4 the victim has received assistance pursuant to that program. The
5 sentencing court shall be provided a record of the payments made
6 to victims and of the payments deposited to the Restitution Fund
7 pursuant to this subdivision.

8 (d) If a prisoner is punished by imprisonment in a county jail
9 pursuant to subdivision (h) of Section 1170 and owes a restitution
10 order imposed pursuant to subdivision (c) of Section 13967 of the
11 Government Code, as operative prior to September 29, 1994,
12 subdivision (h) of Section 730.6 of the Welfare and Institutions
13 Code, or subdivision (b) of Section 1202.4 of this code, the agency
14 designated by the board of supervisors in the county where the
15 prisoner is incarcerated is authorized to deduct a minimum of 20
16 percent or the balance owing on the order amount, whichever is
17 less, up to a maximum of 50 percent from a county jail equivalent
18 of wages and trust account deposits of a prisoner, unless prohibited
19 by federal law. The agency shall transfer that amount to the
20 California Victim Compensation and Government Claims Board
21 for direct payment to the victim, or payment shall be made to the
22 Restitution Fund to the extent that the victim has received
23 assistance pursuant to that program, or may pay the victim directly.
24 The sentencing court shall be provided a record of the payments
25 made to the victims and of the payments deposited to the
26 Restitution Fund pursuant to this subdivision.

27 (e) The secretary shall deduct and retain from the wages and
28 trust account deposits of a prisoner, unless prohibited by federal
29 law, an administrative fee that totals 10 percent of any amount
30 transferred to the California Victim Compensation and Government
31 Claims Board pursuant to subdivision (a) or (c). The secretary
32 shall deduct and retain from any prisoner settlement or trial award,
33 an administrative fee that totals 5 percent of any amount paid from
34 the settlement or award to satisfy an outstanding restitution order
35 or fine pursuant to subdivision (n), unless prohibited by federal
36 law. The secretary shall deposit the administrative fee moneys in
37 a special deposit account for reimbursing administrative and
38 support costs of the restitution program of the department. The
39 secretary, at his or her discretion, may retain any excess funds in
40 the special deposit account for future reimbursement of the

1 department's administrative and support costs for the restitution
2 program or may transfer all or part of the excess funds for deposit
3 in the Restitution Fund.

4 (f) If a prisoner is punished by imprisonment in a county jail
5 pursuant to subdivision (h) of Section 1170, the agency designated
6 by the board of supervisors in the county where the prisoner is
7 incarcerated is authorized to deduct and retain from a county jail
8 equivalent of wages and trust account deposits of a prisoner, unless
9 prohibited by federal law, an administrative fee to cover the actual
10 administrative cost of collection, not to exceed 10 percent of the
11 total amount collected pursuant to subdivision (b) or (d). The
12 agency is authorized to deduct and retain from a prisoner settlement
13 or trial award an administrative fee that totals 5 percent of any
14 amount paid from the settlement or award to satisfy an outstanding
15 restitution order or fine pursuant to subdivision (n), unless
16 prohibited by federal law. The agency shall deposit the
17 administrative fee moneys in a special deposit account for
18 reimbursing administrative and support costs of the restitution
19 program of the agency. The agency may retain any excess funds
20 in the special deposit account for future reimbursement of the
21 agency's administrative and support costs for the restitution
22 program or may transfer all or part of the excess funds for deposit
23 in the Restitution Fund.

24 (g) In any case in which a parolee owes a restitution fine
25 imposed pursuant to subdivision (a) of Section 13967 of the
26 Government Code, as operative prior to September 29, 1994,
27 subdivision (b) of Section 730.6 of the Welfare and Institutions
28 Code, or subdivision (b) of Section 1202.4 of this code, the
29 secretary, or, when a prisoner is punished by imprisonment in a
30 county jail pursuant to subdivision (h) of Section 1170, the agency
31 designated by the board of supervisors in the county where the
32 prisoner is incarcerated, may collect from the parolee or, pursuant
33 to Section 2085.6 or 2085.7, from a person previously imprisoned
34 in county jail any moneys owing on the restitution fine amount,
35 unless prohibited by federal law. The secretary or the agency shall
36 transfer that amount to the California Victim Compensation and
37 Government Claims Board for deposit in the Restitution Fund.
38 The amount deducted shall be credited against the amount owing
39 on the fine. The sentencing court shall be provided a record of the
40 payments.

~~(h) In any case in which a parolee owes a direct order of restitution, imposed pursuant to subdivision (c) of Section 13967 of the Government Code, as operative prior to September 29, 1994, subdivision (h) of Section 730.6 of the Welfare and Institutions Code, or paragraph (3) of subdivision (a) of Section 1202.4 of this code, the secretary, or, when a prisoner is punished by imprisonment in a county jail pursuant to subdivision (h) of Section 1170, the agency designated by the board of supervisors in the county where the prisoner is incarcerated or a local collection program, may collect from the parolee or, pursuant to Section 2085.6 or 2085.7, from a person previously imprisoned in county jail any moneys owing, unless prohibited by federal law. The secretary or the agency shall transfer that amount to the California Victim Compensation and Government Claims Board for direct payment to the victim, or payment shall be made to the Restitution Fund to the extent that the victim has received assistance pursuant to that program, or the agency may pay the victim directly. The sentencing court shall be provided a record of the payments made by the offender pursuant to this subdivision.~~

~~(i) The secretary or, if a prisoner is punished by imprisonment in a county jail pursuant to subdivision (h) of Section 1170, the agency designated by the board of supervisors in the county where the prisoner is incarcerated, may deduct and retain from moneys collected from parolees or persons previously imprisoned in county jail an administrative fee to cover the actual administrative cost of collection, not to exceed 10 percent of the total amount collected pursuant to subdivision (g) or (h), unless prohibited by federal law. The secretary shall deduct and retain from any settlement or trial award of a parolee an administrative fee that totals 5 percent of an amount paid from the settlement or award to satisfy an outstanding restitution order or fine pursuant to subdivision (n), unless prohibited by federal law. The agency may deduct and retain from any settlement or trial award of a person previously imprisoned in county jail an administrative fee that totals 5 percent of any amount paid from the settlement or award to satisfy an outstanding restitution order or fine pursuant to subdivision (n). The secretary or the agency shall deposit the administrative fee moneys in a special deposit account for reimbursing administrative and support costs of the department's or agency's restitution program, as applicable. The secretary, at his or her discretion, or the agency~~

1 may retain any excess funds in the special deposit account for
2 future reimbursement of the department's or agency's
3 administrative and support costs for the restitution program or may
4 transfer all or part of the excess funds for deposit in the Restitution
5 Fund.

6 (j) If a prisoner has both a restitution fine and a restitution order
7 from the sentencing court, the department shall collect the
8 restitution order first pursuant to subdivision (e).

9 (k) If a prisoner is punished by imprisonment in a county jail
10 pursuant to subdivision (h) of Section 1170 and that prisoner has
11 both a restitution fine and a restitution order from the sentencing
12 court, if the agency designated by the board of supervisors in the
13 county where the prisoner is incarcerated collects the fine and
14 order, the agency shall collect the restitution order first pursuant
15 to subdivision (d).

16 (l) If a parolee has both a restitution fine and a restitution order
17 from the sentencing court, the department or, if the prisoner is
18 punished by imprisonment in a county jail pursuant to subdivision
19 (h) of Section 1170, the agency designated by the board of
20 supervisors in the county where the prisoner is incarcerated, may
21 collect the restitution order first, pursuant to subdivision (h).

22 (m) If an inmate is housed at an institution that requires food
23 to be purchased from the institution canteen for unsupervised
24 overnight visits, and if the money for the purchase of this food is
25 received from funds other than the inmate's wages, that money
26 shall be exempt from restitution deductions. This exemption shall
27 apply to the actual amount spent on food for the visit up to a
28 maximum of fifty dollars (\$50) for visits that include the inmate
29 and one visitor, seventy dollars (\$70) for visits that include the
30 inmate and two or three visitors, and eighty dollars (\$80) for visits
31 that include the inmate and four or more visitors.

32 (n) Compensatory or punitive damages awarded by trial or
33 settlement to any inmate, parolee, person placed on postrelease
34 community supervision pursuant to Section 3451, or defendant on
35 mandatory supervision imposed pursuant to subparagraph (B) of
36 paragraph (5) of subdivision (h) of Section 1170, in connection
37 with a civil action brought against a federal, state, or local jail,
38 prison, or correctional facility, or any official or agent thereof,
39 shall be paid directly, after payment of reasonable attorney's fees
40 and litigation costs approved by the court, to satisfy any

1 ~~outstanding restitution orders or restitution fines against that~~
2 ~~person. The balance of the award shall be forwarded to the payee~~
3 ~~after full payment of all outstanding restitution orders and~~
4 ~~restitution fines, subject to subdivisions (e) and (i). The department~~
5 ~~shall make all reasonable efforts to notify the victims of the crime~~
6 ~~for which that person was convicted concerning the pending~~
7 ~~payment of any compensatory or punitive damages. For any~~
8 ~~prisoner punished by imprisonment in a county jail pursuant to~~
9 ~~subdivision (h) of Section 1170, the agency is authorized to make~~
10 ~~all reasonable efforts to notify the victims of the crime for which~~
11 ~~that person was convicted concerning the pending payment of any~~
12 ~~compensatory or punitive damages.~~

13 ~~(o) (1) Amounts transferred to the California Victim~~
14 ~~Compensation and Government Claims Board for payment of~~
15 ~~direct orders of restitution shall be paid to the victim within 60~~
16 ~~days from the date the restitution revenues are received by the~~
17 ~~California Victim Compensation and Government Claims Board.~~
18 ~~If the restitution payment to a victim is less than twenty-five dollars~~
19 ~~(\$25), then payment need not be forwarded to that victim until the~~
20 ~~payment reaches twenty-five dollars (\$25) or when the victim~~
21 ~~requests payment of the lesser amount.~~

22 ~~(2) If a victim cannot be located, the restitution revenues~~
23 ~~received by the California Victim Compensation and Government~~
24 ~~Claims Board on behalf of the victim shall be held in trust in the~~
25 ~~Restitution Fund until the end of the state fiscal year subsequent~~
26 ~~to the state fiscal year in which the funds were deposited or until~~
27 ~~the time that the victim has provided current address information,~~
28 ~~whichever occurs sooner. Amounts remaining in trust at the end~~
29 ~~of the specified period of time shall revert to the Restitution Fund.~~

30 ~~(3) (A) A victim failing to provide a current address within the~~
31 ~~period of time specified in paragraph (2) may provide~~
32 ~~documentation to the department, which shall verify that moneys~~
33 ~~were collected on behalf of the victim. Upon receipt of that verified~~
34 ~~information from the department, the California Victim~~
35 ~~Compensation and Government Claims Board shall transmit the~~
36 ~~restitution revenues to the victim in accordance with the provisions~~
37 ~~of subdivision (c) or (h).~~

38 ~~(B) A victim failing to provide a current address within the~~
39 ~~period of time specified in paragraph (2) may provide~~
40 ~~documentation to the agency designated by the board of supervisors~~

1 in the county where the prisoner punished by imprisonment in a
2 county jail pursuant to subdivision (h) of Section 1170 is
3 incarcerated, which may verify that moneys were collected on
4 behalf of the victim. Upon receipt of that verified information from
5 the agency, the California Victim Compensation and Government
6 Claims Board shall transmit the restitution revenues to the victim
7 in accordance with the provisions of subdivision (d) or (h).

8 *SECTION 1. Section 2085.5 of the Penal Code is amended to*
9 *read:*

10 2085.5. (a) In any case in which a prisoner owes a restitution
11 fine imposed pursuant to subdivision (a) of Section 13967 of the
12 Government Code, as operative prior to September 29, 1994,
13 subdivision (b) of Section 730.6 of the Welfare and Institutions
14 Code, or subdivision (b) of Section ~~1202.4~~, *1202.4 of this code*,
15 the ~~Secretary of the Department of Corrections and Rehabilitation~~
16 *secretary* shall deduct a minimum of 20 percent or the balance
17 owing on the fine amount, whichever is less, up to a maximum of
18 50 percent from the wages and trust account deposits of a prisoner,
19 unless prohibited by federal law, and shall transfer that amount to
20 the California Victim Compensation Board for deposit in the
21 Restitution ~~Fund in the State Treasury.~~ *Fund.* The amount deducted
22 shall be credited against the amount owing on the fine. The
23 sentencing court shall be provided a record of the payments.

24 (b) (1) ~~When~~ *If* a prisoner is punished by imprisonment in a
25 county jail pursuant to subdivision (h) of Section ~~1170~~, *in any case*
26 ~~in which a prisoner 1170 and~~ owes a restitution fine imposed
27 pursuant to subdivision (a) of Section 13967 of the Government
28 Code, as operative prior to September 29, 1994, subdivision (b)
29 of Section 730.6 of the Welfare and Institutions Code, or
30 subdivision (b) of Section ~~1202.4~~, *1202.4 of this code*, the agency
31 designated by the board of supervisors in ~~the~~ *a* county where the
32 prisoner is incarcerated is authorized to deduct a minimum of 20
33 percent or the balance owing on the fine amount, whichever is
34 less, up to a maximum of 50 percent from the county jail equivalent
35 of wages and trust account deposits of a prisoner, unless prohibited
36 by federal law, and shall transfer that amount to the California
37 Victim Compensation Board for deposit in the Restitution ~~Fund~~
38 ~~in the State Treasury.~~ *Fund.* The amount deducted shall be credited
39 against the amount owing on the fine. The sentencing court shall
40 be provided a record of the payments.

1 (2) If the board of supervisors designates the county sheriff as
2 the collecting agency, the board of supervisors shall first obtain
3 the concurrence of the county sheriff.

4 (c) In any case in which a prisoner owes a restitution order
5 imposed pursuant to subdivision (c) of Section 13967 of the
6 Government Code, as operative prior to September 29, 1994,
7 subdivision (h) of Section 730.6 of the Welfare and Institutions
8 Code, or subdivision (f) of Section ~~1202.4~~, *1202.4 of this code*,
9 ~~the Secretary of the Department of Corrections and Rehabilitation~~
10 ~~secretary~~ shall deduct a minimum of 20 percent or the balance
11 owing on the order amount, whichever is less, up to a maximum
12 of 50 percent from the wages and trust account deposits of a
13 prisoner, unless prohibited by federal law. The secretary shall
14 transfer that amount to the California Victim Compensation Board
15 for direct payment to the victim, or payment shall be made to the
16 Restitution Fund to the extent that the victim has received
17 assistance pursuant to that program. The sentencing court shall be
18 provided a record of the payments made to victims and of the
19 payments deposited to the Restitution Fund pursuant to this
20 subdivision.

21 (d) ~~When~~ *If* a prisoner is punished by imprisonment in a county
22 jail pursuant to subdivision (h) of Section ~~1170~~, *in any case in*
23 ~~which a prisoner 1170 and~~ owes a restitution order imposed
24 pursuant to subdivision (c) of Section 13967 of the Government
25 Code, as operative prior to September 29, 1994, subdivision (h)
26 of Section 730.6 of the Welfare and Institutions Code, or
27 subdivision (b) of Section ~~1202.4~~, *1202.4 of this code*, the agency
28 designated by the board of supervisors in the county where the
29 prisoner is incarcerated is authorized to deduct a minimum of 20
30 percent or the balance owing on the order amount, whichever is
31 less, up to a maximum of 50 percent from the county jail equivalent
32 of wages and trust account deposits of a prisoner, unless prohibited
33 by federal law. The agency shall transfer that amount to the
34 California Victim Compensation Board for direct payment to the
35 victim, or payment shall be made to the Restitution Fund to the
36 extent that the victim has received assistance pursuant to that
37 program, or may pay the victim directly. The sentencing court
38 shall be provided a record of the payments made to the victims
39 and of the payments deposited to the Restitution Fund pursuant to
40 this subdivision.

1 (e) ~~The~~ *Except as provided in Section 2085.8, the* secretary shall
2 deduct and retain from the wages and trust account deposits of a
3 prisoner, unless prohibited by federal law, an administrative fee
4 that totals 10 percent of any amount transferred to the California
5 Victim Compensation Board pursuant to subdivision (a) or (c).
6 ~~The secretary shall deduct and retain from any prisoner settlement~~
7 ~~or trial award, an administrative fee that totals 5 percent of any~~
8 ~~amount paid from the settlement or award to satisfy an outstanding~~
9 ~~restitution order or fine pursuant to subdivision (n), unless~~
10 ~~prohibited by federal law.~~ The secretary shall deposit the
11 administrative fee moneys in a special deposit account for
12 reimbursing administrative and support costs of the restitution
13 program of the ~~Department of Corrections and Rehabilitation~~
14 ~~department.~~ The secretary, at his or her discretion, may retain any
15 excess funds in the special deposit account for future
16 reimbursement of the department's administrative and support
17 costs for the restitution program or may transfer all or part of the
18 excess funds for deposit in the Restitution Fund.

19 (f) ~~When~~ *Except as provided in Section 2085.8, if* a prisoner is
20 punished by imprisonment in a county jail pursuant to subdivision
21 (h) of Section 1170, the agency designated by the board of
22 supervisors in ~~the~~ a county where the prisoner is incarcerated ~~is~~
23 ~~authorized to~~ *may* deduct and retain from the county jail equivalent
24 of wages and trust account deposits of a prisoner, unless prohibited
25 by federal law, an administrative fee ~~that totals 10 percent of any~~
26 ~~amount transferred to the California Victim Compensation Board~~
27 ~~to cover the actual administrative cost of collection, not to exceed~~
28 ~~10 percent of the total amount collected,~~ pursuant to subdivision
29 (b) or (d). ~~The agency is authorized to deduct and retain from a~~
30 ~~prisoner settlement or trial award an administrative fee that totals~~
31 ~~5 percent of any amount paid from the settlement or award to~~
32 ~~satisfy an outstanding restitution order or fine pursuant to~~
33 ~~subdivision (n), unless prohibited by federal law.~~ Upon release
34 from custody pursuant to subdivision (h) of Section 1170, the
35 agency ~~is authorized to charge a fee to cover the actual~~
36 ~~administrative cost of collection, not to exceed 10 percent of the~~
37 ~~total amount collected.~~ The agency shall deposit the administrative
38 fee moneys in a special deposit account for reimbursing
39 administrative and support costs of the restitution program of the
40 agency. The agency ~~is authorized to~~ *may* retain any excess funds

1 in the special deposit account for future reimbursement of the
2 agency's administrative and support costs for the restitution
3 program or may transfer all or part of the excess funds for deposit
4 in the Restitution Fund.

5 (g) In any case in which a parolee owes a restitution fine
6 imposed pursuant to subdivision (a) of Section 13967 of the
7 Government Code, as operative prior to September 29, 1994,
8 subdivision (b) of Section 730.6 of the Welfare and Institutions
9 Code, or subdivision (b) of Section ~~1202.4~~, *1202.4 of this code*,
10 ~~either the secretary, or, when secretary or, if a prisoner is punished~~
11 ~~by imprisonment in a county jail pursuant to subdivision (h) of~~
12 ~~Section 1170, the agency designated by the board of supervisors~~
13 ~~in the county where the prisoner is incarcerated, incarcerated may~~
14 ~~collect from the parolee or, pursuant to Section 2085.6, from a~~
15 ~~person previously imprisoned in county jail any moneys owing on~~
16 ~~the restitution fine amount, unless prohibited by federal law. The~~
17 ~~secretary or the agency shall transfer that amount to the California~~
18 ~~Victim Compensation Board for deposit in the Restitution Fund~~
19 ~~in the State Treasury. Fund.~~ The amount deducted shall be credited
20 against the amount owing on the fine. The sentencing court shall
21 be provided a record of the payments.

22 (h) In any case in which a parolee owes a direct order of
23 restitution, imposed pursuant to subdivision (c) of Section 13967
24 of the Government Code, as operative prior to September 29, 1994,
25 subdivision (h) of Section 730.6 of the Welfare and Institutions
26 Code, or paragraph (3) of subdivision (a) of Section 1202.4, *either*
27 ~~the secretary, or, when secretary or, if a prisoner is punished by~~
28 ~~imprisonment in a county jail pursuant to subdivision (h) of Section~~
29 ~~1170, the agency designated by the board of supervisors in the~~
30 ~~county where the prisoner is incarcerated or a local collection~~
31 ~~program, program may collect from the parolee or, pursuant to~~
32 ~~Section 2085.6, from a person previously imprisoned in county~~
33 ~~jail any moneys owing, unless prohibited by federal law. The~~
34 ~~secretary or the agency shall transfer that amount to the California~~
35 ~~Victim Compensation Board for direct payment to the victim, or~~
36 ~~payment shall be made to the Restitution Fund to the extent that~~
37 ~~the victim has received assistance pursuant to that program, or the~~
38 ~~agency may pay the victim directly. The sentencing court shall be~~
39 ~~provided a record of the payments made by the offender pursuant~~
40 ~~to this subdivision.~~

1 (i) ~~The secretary, Except as provided in Section 2085.8, either~~
2 ~~the secretary or, when if a prisoner is punished by imprisonment~~
3 ~~in a county jail pursuant to subdivision (h) of Section 1170, the~~
4 ~~agency designated by the board of supervisors in the county where~~
5 ~~the prisoner is incarcerated, incarcerated may deduct and retain~~
6 ~~from moneys collected from parolees or persons previously~~
7 ~~imprisoned in county jail an administrative fee that totals 10 percent~~
8 ~~of any amount transferred to the California Victim Compensation~~
9 ~~Board to cover the actual administrative cost of collection, not to~~
10 ~~exceed 10 percent of the total amount collected pursuant to~~
11 ~~subdivision (g) or (h), unless prohibited by federal law. The~~
12 ~~secretary shall deduct and retain from any settlement or trial award~~
13 ~~of a parolee an administrative fee that totals 5 percent of an amount~~
14 ~~paid from the settlement or award to satisfy an outstanding~~
15 ~~restitution order or fine pursuant to subdivision (n), unless~~
16 ~~prohibited by federal law. The agency is authorized to deduct and~~
17 ~~retain from any settlement or trial award of a person previously~~
18 ~~imprisoned in county jail an administrative fee that totals 5 percent~~
19 ~~of any amount paid from the settlement or award to satisfy an~~
20 ~~outstanding restitution order or fine pursuant to subdivision (n).~~
21 The secretary or the agency shall deposit the administrative fee
22 moneys in a special deposit account for reimbursing administrative
23 and support costs of the *department or agency's* restitution program
24 of the Department of Corrections and Rehabilitation or the agency,
25 program, as applicable. The secretary, at his or her discretion, or
26 the agency may retain any excess funds in the special deposit
27 account for future reimbursement of the department's or agency's
28 administrative and support costs for the restitution program or may
29 transfer all or part of the excess funds for deposit in the Restitution
30 Fund.

31 (j) ~~When~~ If a prisoner has both a restitution fine and a restitution
32 order from the sentencing court, the ~~Department of Corrections~~
33 ~~and Rehabilitation department~~ shall collect the restitution order
34 first pursuant to subdivision (c).

35 (k) ~~When~~ If a prisoner is punished by imprisonment in a county
36 jail pursuant to subdivision (h) of Section 1170 and that prisoner
37 has both a restitution fine and a restitution order from the
38 sentencing court, if the agency designated by the board of
39 supervisors in the county where the prisoner is incarcerated collects

1 the fine and order, the agency shall collect the restitution order
2 first pursuant to subdivision (d).

3 ~~(l) When~~ If a parolee has both a restitution fine and a restitution
4 order from the sentencing court, ~~the Department of Corrections~~
5 ~~and Rehabilitation, or, when either the department or, if the~~
6 prisoner is punished by imprisonment in a county jail pursuant to
7 subdivision (h) of Section 1170, the agency designated by the
8 board of supervisors in the county where the prisoner is
9 ~~incarcerated, incarcerated~~ may collect the restitution order first,
10 pursuant to subdivision (h).

11 (m) If an inmate is housed at an institution that requires food
12 to be purchased from the institution canteen for unsupervised
13 overnight visits, and if the money for the purchase of this food is
14 received from funds other than the inmate's wages, that money
15 shall be exempt from restitution deductions. This exemption shall
16 apply to the actual amount spent on food for the visit up to a
17 maximum of fifty dollars (\$50) for visits that include the inmate
18 and one visitor, seventy dollars (\$70) for visits that include the
19 inmate and two or three visitors, and eighty dollars (\$80) for visits
20 that include the inmate and four or more visitors.

21 ~~(n) Compensatory or punitive damages awarded by trial or~~
22 ~~settlement to any inmate, parolee, person placed on postrelease~~
23 ~~community supervision pursuant to Section 3451, or defendant on~~
24 ~~mandatory supervision imposed pursuant to subparagraph (B) of~~
25 ~~paragraph (5) of subdivision (h) of Section 1170, in connection~~
26 ~~with a civil action brought against a federal, state, or local jail,~~
27 ~~prison, or correctional facility, or any official or agent thereof,~~
28 ~~shall be paid directly, after payment of reasonable attorney's fees~~
29 ~~and litigation costs approved by the court, to satisfy any~~
30 ~~outstanding restitution orders or restitution fines against that~~
31 ~~person. The balance of the award shall be forwarded to the payee~~
32 ~~after full payment of all outstanding restitution orders and~~
33 ~~restitution fines, subject to subdivisions (e) and (i). The Department~~
34 ~~of Corrections and Rehabilitation shall make all reasonable efforts~~
35 ~~to notify the victims of the crime for which that person was~~
36 ~~convicted concerning the pending payment of any compensatory~~
37 ~~or punitive damages. For any prisoner punished by imprisonment~~
38 ~~in a county jail pursuant to subdivision (h) of Section 1170, the~~
39 ~~agency is authorized to make all reasonable efforts to notify the~~
40 ~~victims of the crime for which that person was convicted~~

1 concerning the pending payment of any compensatory or punitive
2 damages.

3 (e)

4 (n) (1) Amounts transferred to the California Victim
5 Compensation Board for payment of direct orders of restitution
6 shall be paid to the victim within 60 days from the date the
7 restitution revenues are received by the California Victim
8 Compensation Board. If the restitution payment to a victim is less
9 than twenty-five dollars (\$25), then payment need not be forwarded
10 to that victim until the payment reaches twenty-five dollars (\$25)
11 or when the victim requests payment of the lesser amount.

12 (2) If a victim cannot be located, the restitution revenues
13 received by the California Victim Compensation Board on behalf
14 of the victim shall be held in trust in the Restitution Fund until the
15 end of the state fiscal year subsequent to the state fiscal year in
16 which the funds were deposited or until the time that the victim
17 has provided current address information, whichever occurs sooner.
18 Amounts remaining in trust at the end of the specified period of
19 time shall revert to the Restitution Fund.

20 (3) (A) A victim failing to provide a current address within the
21 period of time specified in paragraph (2) may provide
22 documentation to the ~~Department of Corrections and Rehabilitation,~~
23 *department*, which shall verify that moneys were collected on
24 behalf of the victim. Upon receipt of that verified information from
25 the ~~Department of Corrections and Rehabilitation,~~ *department*, the
26 California Victim Compensation Board shall transmit the restitution
27 revenues to the victim in accordance with the provisions of
28 subdivision (c) or (h).

29 (B) A victim failing to provide a current address within the
30 period of time specified in paragraph (2) may provide
31 documentation to the agency designated by the board of supervisors
32 in the county where the prisoner punished by imprisonment in a
33 county jail pursuant to subdivision (h) of Section 1170 is
34 incarcerated, which may verify that moneys were collected on
35 behalf of the victim. Upon receipt of that verified information from
36 the agency, the California Victim Compensation Board shall
37 transmit the restitution revenues to the victim in accordance with
38 the provisions of subdivision (d) or (h).

39 SEC. 2. Section 2085.7 is added to the Penal Code, to read:

1 2085.7. (a) When a prisoner who owes a restitution fine, or
2 any portion thereof, is released from the custody of a county jail
3 facility after completion of a term in custody pursuant to
4 subparagraph (A) of paragraph (5) of subdivision (h) of Section
5 1170, he or she has a continuing obligation to pay the restitution
6 fine in full. The balance of the restitution fine remaining unpaid
7 after completion of a term in custody pursuant to subparagraph
8 (A) of paragraph (5) of subdivision (h) of Section 1170 is
9 enforceable and may be collected, in a manner to be established
10 by the county board of supervisors, by the department or county
11 agency designated by the board of supervisors in the county in
12 which the prisoner is released. If a county elects to collect
13 restitution fines, the department or county agency designated by
14 the county board of supervisors shall transfer the amount collected
15 to the California Victim Compensation and Government Claims
16 Board for deposit in the Restitution Fund.

17 (b) When a prisoner who owes payment for a restitution order,
18 or any portion thereof, is released from the custody of a county
19 jail facility after completion of a term in custody pursuant to
20 subparagraph (A) of paragraph (5) of subdivision (h) of Section
21 1170, he or she has a continuing obligation to pay the restitution
22 order in full. The balance of the restitution order remaining unpaid
23 after completion of a term in custody pursuant to subparagraph
24 (A) of paragraph (5) of subdivision (h) of Section 1170 is
25 enforceable and may be collected, in a manner to be established
26 by the county board of supervisors, by the agency designated by
27 the county board of supervisors in the county in which the prisoner
28 is released. If the county elects to collect the restitution order, the
29 agency designated by the county board of supervisors for collection
30 shall transfer the collected amount to the California Victim
31 Compensation and Government Claims Board for deposit in the
32 Restitution Fund or may pay the victim directly. The sentencing
33 court shall be provided a record of payments made to the victim
34 and of the payments deposited into the Restitution Fund.

35 (c) The amount of a restitution order or restitution fine that
36 remains unsatisfied after completion of a term in custody pursuant
37 to subparagraph (A) of paragraph (5) of subdivision (h) of Section
38 1170 is to be enforceable by a victim pursuant to Section 1214
39 until the obligation is satisfied.

(d) ~~At~~ Except as provided in Section 2085.8, at its discretion, a county board of supervisors may impose a fee upon the individual after completion of a term in custody pursuant to subparagraph (A) of paragraph (5) of subdivision (h) of Section 1170 to cover the actual administrative cost of collecting the restitution fine and the restitution order, in an amount not to exceed 10 percent of the amount collected, the proceeds of which shall be deposited into the general fund of the county.

(e) If a county elects to collect both a restitution fine and a restitution order, the amount owed on the restitution order shall be collected before the restitution fine.

(f) If a county elects to collect restitution fines and restitution orders pursuant to this section, the county shall coordinate efforts with the Franchise Tax Board pursuant to Section 19280 of the Revenue and Taxation Code.

(g) Pursuant to Section 1214, the county agency selected by a county board of supervisors to collect restitution fines and restitution orders may collect restitution fines and restitution orders after an individual has completed a term in custody pursuant to subparagraph (A) of paragraph (5) of subdivision (h) of Section 1170.

(h) For purposes of this section, the following definitions shall apply:

(1) "Restitution fine" means a fine imposed pursuant to subdivision (a) of Section 13967 of the Government Code, as operative prior to September 29, 1994, subdivision (b) of Section 730.6 of the Welfare and Institutions Code, or subdivision (b) of Section 1202.4.

(2) "Restitution order" means an order for restitution to the victim of a crime imposed pursuant to subdivision (c) of Section 13967 of the Government Code, as operative prior to September 29, 1994, subdivision (h) of Section 730.6 of the Welfare and Institutions Code, or subdivision (f) of Section 1202.4.

SEC. 3. Section 2085.8 is added to the Penal Code, to read:

2085.8. (a) Compensatory or punitive damages awarded by trial or settlement to any inmate, parolee, person placed on postrelease community supervision pursuant to Section 3451, or defendant on mandatory supervision imposed pursuant to subparagraph (B) of paragraph (5) of subdivision (h) of Section 1170 in connection with a civil action brought against a federal,

1 state, or local jail, prison, or correctional facility, or any official
2 or agent thereof, shall be paid directly, after payment of reasonable
3 attorney's fees and litigation costs approved by the court, to satisfy
4 any outstanding restitution orders or restitution fines against that
5 person. The balance of the award shall be forwarded to the payee
6 after full payment of all outstanding restitution orders and
7 restitution fines, subject to subdivision (c).

8 (b) The department shall make all reasonable efforts to notify
9 the victims of the crime for which that person was convicted
10 concerning the pending payment of any compensatory or punitive
11 damages. For any prisoner punished by imprisonment in a county
12 jail pursuant to subdivision (h) of Section 1170, the agency may
13 make all reasonable efforts to notify the victims of the crime for
14 which that person was convicted concerning the pending payment
15 of any compensatory or punitive damages.

16 (c) (1) The secretary shall deduct and retain from any prisoner
17 or parolee settlement or trial award an administrative fee that
18 totals 5 percent of any amount paid from the settlement or award
19 to satisfy an outstanding restitution order or fine, unless prohibited
20 by federal law.

21 (2) The agency may deduct and retain from any settlement or
22 trial award of a person previously imprisoned in county jail an
23 administrative fee that totals 5 percent of any amount paid from
24 the settlement or award to satisfy an outstanding restitution order
25 or fine, unless prohibited by federal law.

26 (3) The secretary or the agency shall deposit the administrative
27 fee moneys in a special deposit account for reimbursing
28 administrative and support costs of the department's or agency's
29 restitution program, as applicable. The secretary, at his or her
30 discretion, or the agency may either retain any excess funds in the
31 special deposit account for future reimbursement of the
32 department's or agency's administrative and support costs for the
33 restitution program or may transfer all or part of the excess funds
34 for deposit in the Restitution Fund.

35 ~~SEC. 3.~~

36 SEC. 4. Section 19280 of the Revenue and Taxation Code is
37 amended to read:

38 19280. (a) (1) (A) Fines, state or local penalties, bail,
39 forfeitures, restitution fines, restitution orders, or any other amounts
40 imposed by a juvenile or superior court of the State of California

1 upon a person or any other entity that are due and payable in an
2 amount totaling no less than one hundred dollars (\$100), in the
3 aggregate, for criminal offenses, including all offenses involving
4 a violation of the Vehicle Code, and any amounts due pursuant to
5 Section 903.1 of the Welfare and Institutions Code may, no sooner
6 than 90 days after payment of that amount becomes delinquent,
7 be referred by the juvenile or superior court, the county, or the
8 state to the Franchise Tax Board for collection under guidelines
9 prescribed by the Franchise Tax Board. Except as specified in
10 subparagraph (B), the Department of Corrections and Rehabilitation
11 or county may refer a restitution order to the Franchise Tax Board,
12 in accordance with subparagraph (B) of paragraph (2), for any
13 person subject to the restitution order who is or has been under the
14 jurisdiction of the Department of Corrections and Rehabilitation
15 or the county.

16 (B) The Department of Corrections and Rehabilitation or the
17 county shall not refer a restitution order to the Franchise Tax Board
18 if a county agency has been designated by the county board of
19 supervisors to collect restitution from individuals who (i) are
20 serving a sentence in a county jail pursuant to subdivision (h) of
21 Section 1170 of the Penal Code, (ii) are on mandatory supervision
22 pursuant to paragraph (5) of subdivision (h) of Section 1170 of
23 the Penal Code, or (iii) are on postrelease community supervision
24 pursuant to Title 2.05 (commencing with Section 3450) of Part 3
25 of the Penal Code, the designated county agency has an existing
26 collection system and objects to collection by the Franchise Tax
27 Board, and the designated county agency informs the Department
28 of Corrections and Rehabilitation or the county that it will collect
29 the restitution order.

30 (C) If the crime victim entitled to restitution in the order notifies
31 either the Department of Corrections and Rehabilitation or the
32 designated county agency with regard to his or her preference of
33 a collecting agency, that preference shall be honored and the
34 collection shall be performed in accordance with the preference
35 of the victim.

36 (2) For purposes of this subdivision:

37 (A) The amounts referred by the juvenile or superior court, the
38 county, or the state under this section may include an administrative
39 fee and any amounts that a government entity may add to the
40 court-imposed obligation as a result of the underlying offense,

1 trial, or conviction. For purposes of this article, those amounts
2 shall be deemed to be imposed by the court.

3 (B) Restitution orders may be referred to the Franchise Tax
4 Board only by a government entity, as agreed upon by the
5 Franchise Tax Board, provided that all of the following apply:

6 (i) The government entity has the authority to collect on behalf
7 of the state or the victim.

8 (ii) The government entity shall be responsible for distributing
9 the restitution order collections, as appropriate.

10 (iii) The government entity shall ensure, in making the referrals
11 and distributions, that it coordinates with any other related
12 collection activities that may occur by superior courts, counties,
13 or other state agencies.

14 (iv) The government entity shall ensure compliance with laws
15 relating to the reimbursement of the Restitution Fund.

16 (C) The Franchise Tax Board shall establish criteria for referral
17 that shall include setting forth a minimum dollar amount subject
18 to referral and collection.

19 (b) The Franchise Tax Board, in conjunction with the Judicial
20 Council, shall seek whatever additional resources are needed to
21 accept referrals from all 58 counties or superior courts.

22 (c) Upon written notice to the debtor from the Franchise Tax
23 Board, any amount referred to the Franchise Tax Board under
24 subdivision (a) and any interest thereon, including any interest on
25 the amount referred under subdivision (a) that accrued prior to the
26 date of referral, shall be treated as final and due and payable to the
27 State of California, and shall be collected from the debtor by the
28 Franchise Tax Board in any manner authorized under the law for
29 collection of a delinquent personal income tax liability, including,
30 but not limited to, issuance of an order and levy under Article 4
31 (commencing with Section 706.070) of Chapter 5 of Division 2
32 of Title 9 of Part 2 of the Code of Civil Procedure in the manner
33 provided for earnings withholding orders for taxes.

34 (d) (1) Part 10 (commencing with Section 17001), this part,
35 Part 10.7 (commencing with Section 21001), and Part 11
36 (commencing with Section 23001) shall apply to amounts referred
37 under this article in the same manner and with the same force and
38 effect and to the full extent as if the language of those laws had
39 been incorporated in full into this article, except to the extent that

1 any provision is either inconsistent with this article or is not
2 relevant to this article.

3 (2) Any information, information sources, or enforcement
4 remedies and capabilities available to the court or the state referring
5 to the amount due described in subdivision (a) shall be available
6 to the Franchise Tax Board to be used in conjunction with, or
7 independent of, the information, information sources, or remedies
8 and capabilities available to the Franchise Tax Board for purposes
9 of administering Part 10 (commencing with Section 17001), this
10 part, Part 10.7 (commencing with Section 21001), or Part 11
11 (commencing with Section 23001).

12 (e) The activities required to implement and administer this part
13 shall not interfere with the primary mission of the Franchise Tax
14 Board to administer Part 10 (commencing with Section 17001)
15 and Part 11 (commencing with Section 23001).

16 (f) For amounts referred for collection under subdivision (a),
17 interest shall accrue at the greater of the rate applicable to the
18 amount due being collected or the rate provided under Section
19 19521. When notice of the amount due includes interest and is
20 mailed to the debtor and the amount is paid within 15 days after
21 the date of notice, interest shall not be imposed for the period after
22 the date of notice.

23 (g) A collection under this article is not a payment of income
24 taxes imposed under Part 10 (commencing with Section 17001)
25 or Part 11 (commencing with Section 23001).